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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,049	07/25/2001	Andreas Dieberger	YOR9-2001-0385 (8728-520)	6021
46069 7590 12/10/2008 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			EXAMINER VAN BRAMER, JOHN W	
			ART UNIT 3622	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/915,049	<b>Applicant(s)</b> DIEBERGER ET AL.	
	<b>Examiner</b> JOHN VAN BRAMER	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 24, 2008 has been entered.

### ***Response to Amendment***

2. The amendment filed on September 24, 2008, cancelled no claims. No new claims were added and claims 1, 14, and 20 were amended. Thus the currently pending claims are 1-6, 8-16, and 18-20.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd (U.S. Patent Number: 6,484,148).

Claim 1: Boyd discloses a method for displaying content on a display device:

- a. Retrieving a plurality of rules, each rule associated with controlling the display of content, wherein the content is provided by a content provider. (Col 9, lines 25-67; and Col 13, lines 22-37)
- b. Updating a plurality of device parameters, wherein at least one device parameter is updated in response to detecting of one of a radio frequency identification tag and an infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- c. Triggering at least two rules of the plurality of rules satisfied by the plurality of device parameters. (Col 7, lines 25-57; Col 8, lines 23-65)
- d. Executing the at least two satisfied rules in response to the detection of the radio frequency identification tag or the infrared tag be detected. (Col 7, lines 25-57; Col 8, lines 23-65; and Col 10, 11-14)
- e. Displaying a first portion of the content according to a first satisfied rule of the two triggered rules. (Col 7, lines 25-57; Col 8, lines 23-65)
- e. Preventing the display of a second portion of the content according to a second rule of the two triggered rules. (Col 9, lines 25-67; and Col 13, lines 22-37)

- f. Determining a fee according to the first rule of the triggered rules, wherein the content provider is charged a fee. (Col 7, lines 25-57; Col 8, lines 23-65)

While Boyd does not specifically state that the preventing of the displayed of a second portion of the content is done in accordance with a second satisfied rule he does state that the system allows advertiser's to place conditions on when an ad is displayed in Col 13, lines 22-28. The specific rules he provides for examples are positive rules such as display the advertisement if the customer is a male, at least 35 years old, has an income greater than \$80,000, and it is during the winter months. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that any positive rule can also be written as a negative rule in order to achieve the same results. An advertiser could target the same individuals by creating the rule in negative form such as display the advertisement if the customer is not a female, not younger than 35 years old, has an income not less than \$80,000.01, and it is not the summer, spring, or fall months. The rationale for writing rules in such a manner is that Boyd allows the advertisers to place the conditions and there are a limited number of predictable ways in which an advertiser can create conditional rules. They can create positive rules, negative rules, or combination of positive and negative rules. The decision as to whether an advertiser places the condition in a positive form or a negative form is a matter of design choice on the part of the advertiser creating the rule.

Claim 2: Boyd discloses the method of claim 1, wherein at least one rule is defined by the content provider to dynamically control the display of the content according to the device parameters. (Col 8, lines 23-65)

Claim 3: Boyd discloses the method of claim 1, wherein the step of executing the at least one triggered rule further comprises the step of receiving a rule trigger from one of a location handler and a signal handler. (Col 7, lines 25-57; Col 8, lines 23-65)

Claim 4: Boyd discloses the method of claim 3, wherein the step of receiving a rule trigger from the location handler further comprises the step of updating a positional parameter. (Col 12, lines 14-40; and Col 13, lines 29-37)

Claim 5: Boyd discloses the method of claim 3, wherein the step of receiving a rule trigger from the signal handler further comprises the steps of:

- a. Interpreting an input signal (Col 6, lines 35-58)
- b. Generating a programmatic event flag (Col 6, lines 35-58)

Claim 6: Boyd discloses the method of claim 5, wherein the step of generating a programmatic event flag further comprises the step of generating one of a reply signal and the rule trigger. (Col 6, lines 35-58)

Claim 8: Boyd discloses the method of claim 1, wherein the step of determining a fee further comprises the steps of:

- a. Determining a value for each of the device parameters (Col 8, lines 23-65)
- b. Determining at least one device parameter satisfying the triggered rule (Col 8, lines 23-65)
- c. Determining the fee according to value of the device parameters satisfying the triggered rule. (Col 8, lines 23-65)

Claim 9: Boyd discloses the method of claim 8, further comprising the step of charging the fee to a client providing content to be displayed. (Col 8, lines 23-65)

Claims 10 and 11: Boyd discloses the method of claim 8, further comprising the step of apportioning fees (Col 8, lines 23-65). However, Boyd is silent with regard to various permutations in which fee apportionment might entail. The teachings of Boyd describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time of the invention that the service provider (entity that runs, operates and/or owns the display device) would need to reimburse the third party carrier (i.e. taxi company, billboard owners, etc) for allowing them to put the display on the carrier's physical property (i.e. taxi cabs, etc.). One would have been motivated to institute such a

reimbursement in order to provide the third party carrier with an incentive to install the display to help in the defrayment of operating costs.

Claim 12: Boyd discloses the method of claim 8, further comprising the step of apportioning the fees (Col 8, lines 23-65). However, Boyd is silent with regard to various permutations in which fee apportionment might entail. The teachings of Boyd describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time the invention was made that when the device is sold as a stand alone device, in which various third party carriers (i.e. taxi companies, billboard owners, etc.) can purchase and install, a fee would need to be paid to the plurality of owners, by the service provider (entity that operates the advertisement distribution hardware), in order to be provided the opportunity to display advertisements on their mobile display unit. One would have been motivated to provide such a reimbursement in order to maximize the number of display units on which it can provide advertisements, and as a result maximize the fees it charges to entities wishing to advertise on the service.

Claim 13: Boyd discloses the method of claim 1, wherein the fee is charged to a user for the use of the display. (the user is the advertiser using the service) (Col 8, lines 23-65)



Claim 14: Boyd discloses a method for displaying content on a mobile display device:

- a. Retrieving a plurality of rules stored in the mobile display device from a rule server. (Col 9, lines 43-63; and Col 13, lines 22-37)
- b. Determining a value for each of a plurality of device parameters. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)
- c. Executing each rule satisfied by the device parameters, wherein the execution is in response to detecting at least one of a radio frequency tag and an infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- e. Displaying content according to each satisfied rule, wherein a first satisfied rule specifies that the radio frequency identification tag or the infrared tag be detected and a second satisfied rule specifies a certain demographic determined based upon a product associated with the radio frequency identification tag or the infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- f. Determining a monetary charge based on the content displayed and a value associated with each of the satisfied rules, which triggered the display of the content, wherein different rules having different values. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)

While Boyd does not specifically state that the monetary charge that is determined is variable, he does disclose that the ranking function that determines which advertisement to display can be based the advertising fees generated by displaying the advertisement and/or the strength of match between the advertisement profile and the customer profile in Col 8, lines 46-51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include variable monetary charges based upon how strong the match is between the advertisement profile and the customer profile. The rational for including variable monetary charges is that common sense dictates the for delivering more narrowly targeted advertisements would greater than the fee for delivering broadly targeted advertisement and in order for Boyd to rank based upon the advertising fees, there must be some variability in the fees charged for the various advertisements. Without such variability the fees would be the same for all advertisements and ranking based on fees would not be possible.

Claim 15: Boyd discloses the method of claim 14, wherein at least one rule is defined by a content provider to dynamically control the display of the content according to the device parameters. (Col 8, lines 23-65)

Claim 16: Boyd discloses the method of claim 14, further comprising receiving a rule trigger from a location handler and updating the positional parameter upon receiving

the rule trigger from the location handler. (Col 7, lines 25-57; Col 8, lines 23-65; Col 12, lines 14-40; and Col 13, lines 29-37)

Claim 18: Boyd discloses the method of claim 14, further comprising:

- a. Receiving a rule trigger from a signal handler . (Col 7, lines 25-57; Col 8, lines 23-65; and Col 9, lines 26-63)
- b. Interpreting an input signal. (Col 6, lines 35-58)
- c. Generating a programmatic event flag upon receiving a rule trigger from the signal handler. (Col 6, lines 35-58)

Claim 19: Boyd discloses the method of claim 18, wherein the step of generating a programmatic event flag further comprises the step of generating a reply signal. (Col 6, lines 35-58; and Col 13, lines 5-67)

Claim 20: Boyd discloses a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for displaying content on a display device, the method steps comprising:

- a. Retrieving a plurality of rules for the display of content, wherein the content is provided by a content provider. (Col 9, lines 43-63; and Col 13, lines 22-37)
- b. Updating a plurality of device parameters, wherein at least one device parameter is updated in response to detecting one of a radio frequency identification tag and an infrared tag provided to at least one spectator. (Col 6,

- lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- c. Determining a rule trigger for triggering at least one rule of the plurality of rules according to the plurality of device parameters. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)
  - d. Executing a trigger rule for causing the display of the content on the display device, wherein the triggered rule specifies that the spectator be detected, wherein the spectator is detected by a receiver which detects the radio frequency identification tag or the infrared tag provided to the spectator. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
  - e. Determining a fee according to at least one device parameter upon executing a rule for the display of content, wherein the content provider is charged the fee (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65), wherein the method step of determining a fee further comprises:
    - i. Determining a value for each of the device parameters. (Col 8, lines 23-65)
    - ii. Determining at least one device parameter satisfying the triggered rule. (Col 8, lines 23-65)
    - iii. Determining the variable fee dynamically for each display of the content according to a combined value of the device parameters currently satisfying the triggered rule. (Col 8, lines 23-65)

While Boyd does not specifically state that the monetary charge that is determined is variable, he does disclose that the ranking function that determines which advertisement to display can be based the advertising fees generated by displaying the advertisement and/or the strength of match between the advertisement profile and the customer profile in Col 8, lines 46-51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include variable monetary charges based upon how strong the match is between the advertisement profile and the customer profile. The rational for including variable monetary charges is that common sense dictates the for delivering more narrowly targeted advertisements would greater than the fee for delivering broadly targeted advertisement and in order for Boyd to rank based upon the advertising fees, there must be some variability in the fees charged for the various advertisements. Without such variability the fees would be the same for all advertisements and ranking based on fees would not be possible.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 14, and 20 have been considered but are moot in view of the new ground(s) of rejection. The arguments directed towards the amended claims have been addressed in the Office action above.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Van Bramer/  
Examiner, Art Unit 3622